

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CAREY KLEIN,

Plaintiff,

No. CV 07-1088-AC

OPINION AND ORDER

v.

CITY OF PORTLAND,
et al.,

Defendants.

MOSMAN, J.,

On May 26, 2009, and June 1, 2009, Magistrate Judge Acosta issued Findings and Recommendations ("F&Rs") (#s 68, 69) in the above-captioned case recommending that I DENY defendants' Motion for Partial Summary Judgment (#37) with regard to plaintiff's Third Claim for Relief for violation of his constitutional right to freedom of speech, and GRANT in all other respects. Judge Acosta further recommended that I DENY defendants' Motion to Dismiss (#54), DENY AS MOOT plaintiff's Motion for Extension of Time (#58), and GRANT plaintiff's Motion to Substitute Patricia Zylawy, as personal representative of Mark Zylawy's estate (#62). No objections to the F&Rs were filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge,

but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Acosta's recommendations, and I ADOPT the F&Rs (## 68, 69) as my own opinions.

IT IS SO ORDERED.

DATED this 8th day of July, 2009.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court